

Hearing Date: December 15, 2010
Objections Deadline: December 8, 2010

LAW OFFICES OF JEROME ZAMOS
Jerome Zamos (Cal. State Bar No. 36246)
Admitted Pro Hac Vice
5228 Campo Road
Woodland Hills, California 91364-1927
Telephone: 818-348-6095
Facsimile: 818-348-6095
email: zamoslaw@aol.com

Attorneys for Real Party in Interest
PRUDENCE WALTZ

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In Re:	Case No. 08-13555 JMP
LEHMAN BROTHERS' HOLDING, INC., a Delaware Corporation	Chapter 11
	[jointly administered]
Debtor	

NOTICE OF MOTION OF PRUDENCE WALTZ FOR RELIEF FROM STAY AND AN
ORDER DIRECTING THE ABANDONMENT OF CLAIMS AGAINST THE REAL
PROPERTY COMMONLY KNOWN AS 844-846 WEST 57TH STREET, LOS ANGELES,
CALIFORNIA

[Bankruptcy Code §§ 362(d)(2) & 554(b)]

NOTICE is hereby given that PRUDENCE WALTZ has filed a Motion pursuant to Sections 362(d) and 554(b) of title 11 of the United States Code (the "Bankruptcy Code") and Rule 4001 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") for Relief from the Automatic Stay (the "Motion") and an order directing the debtor in possession, its affiliates, subsidiaries and any other party related to LEHMAN BROTHERS' HOLDING, INC., a Delaware Corporation [hereinafter referred to as "THE DEBTOR IN THIS CASE"] to release and abandon all claims to title and possession of that certain real property located at and commonly known as 844-846 West 57th Street, Los Angeles, California 90037-3628 [Los Angeles County Assessor's Parcel No. 5001-014-01 which is hereinafter referred to as "THE SUBJECT PROPERTY"] which is more fully described as follows:

The North 113.25 feet of Lot 382 or Burck's Golden Tract, in the City of Los Angeles, County of Los Angeles as per map recorded in Book 10, Page 26 of Maps in the office of the County Records of said County. .

PLEASE TAKE NOTICE that, on December 15, 2010 at 10:00 a.m., or as soon thereafter as the matter may be heard, before the Honorable James M. Peck, United States Bankruptcy Judge, in Courtroom 601 of the United States Bankruptcy Court, Southern District of New York, One Bowling Green, New York, New York, 10004 PRUDENCE WALTZ, a real party in interest, will move the court for an order pursuant to Bankruptcy Code §§ 362(d)(2)(A) and 554(b) directing the DEBTOR IN POSSESSION, its affiliates and subsidiaries [including AURORA LOAN SERVICES, LLC. a Delaware Limited Liability Company] to waive, relinquish and abandon all claims to title and possession of that certain real property located at and commonly known as 844-846 West 57th Street, Los Angeles, California 90037-3628 in that certain action now pending as action BC 374163 in the Superior Court of the State of California and granting her relief from stay under Bankruptcy Code § 362(d)(2)(A) [11 U.S.C. § 362(d)] with reference to said property and said action based upon their lack of a legal interest in either title or possession to said property.

PLEASE TAKE FURTHER NOTICE that any objection or response to the Motion must be in writing, shall conform to the Federal Rules of Bankruptcy Procedure and the Local Rules for the United States Bankruptcy Court for the Southern District of New York, and (I) shall be filed with the Bankruptcy Court electronically in accordance with General Order M-399 (which can be found at <http://www.nysb.uscourts.gov>, the official website for the Bankruptcy Court), by

registered users of the Bankruptcy Court's case filing system and, by all other parties in interest, on a 3.5 inch disk, preferably in Portable Document Format (PDF), WordPerfect or any other Windows-based word processing format (with two hard copies delivered to chambers) and (i) the chambers of the Honorable James M. Peck, One Bowling Green, New York, New York 10004, Courtroom 601; (ii) Weil Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153, (Attn: Richard P. Krasnow, Esq., Lori R. Fife, Esq., Shai Y. Waisman, Esq., and Jacqueline Marcus, Esq.), attorneys for the Debtors; (iii) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, New York 10004 (Attn: Andy Velez-Rivera, Paul Schwartzberg, Brian Masumoto, Linda Riffkin, and Tracy Hope Davis); (iv) Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, New York 10005, (Attn: Dennis F. Dune, Esq., Dennis O'Donnell, Esq., and Evan Fleck, Esq.), attorneys for the official committee of unsecured creditors appointed in these cases; (v) the attorneys for any other official committee(s) appointed in these cases; (vi) THE LAW OFFICES OF JEROME ZAMOS [Attention: JEROME ZAMOS] 5228 Campo Road, Woodland Hills, California 91364-1927 and any person or entity with a particularized interest in the Motion, so as to be so filed and received no later than December 8, 2010 at 4:00 p.m. (prevailing Eastern Time) (the "Objection Deadline").

PLEASE TAKE FURTHER NOTICE that if an objection to the Motion is not received by the Objection Deadline, the relief requested shall be deemed unopposed, and the Bankruptcy Court may enter an order granting the relief sought without a hearing.

PLEASE TAKE FURTHER NOTICE that objecting parties are required to attend the Hearing, and failure to appear may result in relief being granted or denied upon default.

Dated: Woodland Hills, California
November 10, 2010

LAW OFFICES OF JEROME ZAMOS

By: 

Jerome Zamos, Attorneys for
Real Party in Interest PRUDENCE WALTZ
5228 Campo Road
Woodland Hills, California 91364-1927
Telephone: 818-348-7151
Facsimile: 818-348-6095
email: zamoslaw@aol.com

Hearing Date: December 15, 2010
Objections Deadline: December 8, 2010

LAW OFFICES OF JEROME ZAMOS
Jerome Zamos (Cal. State Bar No. 36246)
Admitted Pro Hac Vice
5228 Campo Road
Woodland Hills, California 91364-1927
Telephone: 818-348-6095
Facsimile: 818-348-6095
email: zamoslaw@aol.com

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

Case No. 08-13555 JMP

In Re:

Chapter 11

LEHMAN BROTHERS'
HOLDING, INC., a Delaware
Corporation

[jointly administered]

Debtor

**PRUDENCE WALTZ'S MOTION PURSUANT TO SECTIONS 362(d)(2)(A) AND
554(b) OF THE BANKRUPTCY CODE REQUESTING RELIEF FROM STAY
AND THE ENTRY OF AN ORDER DIRECTING DEBTOR IN POSSESSION
AND ITS AFFILIATE TO ABANDON CLAIMS AGAINST THE REAL
PROPERTY THAT IS THE SUBJECT MATTER OF THAT CERTAIN ACTION
PENDING IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR
THE COUNTY OF LOS ANGELES AS ACTION BC 374163**

TO THE HONORABLE JAMES M. PECK

UNITED STATES BANKRUPTCY JUDGE:

COMES NOW REAL PARTY IN INTEREST PRUDENCE WALTZ [hereinafter referred to as "WALTZ"] and in support of her motion for relief from stay under Sections 362(d)(2)(A) of title 11 of the United States Code [the "Bankruptcy Code"] allowing her to proceed with her claims and causes of action set forth in THE FOURTH AMENDED COMPLAINT filed in that certain action now pending in THE SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES as action No. BC374 163 and an order under Section 554(b) of the Bankruptcy Code abandoning any interest in that certain real property located at and commonly known as 844-846 West 57th Street, Los Angeles, California 90037-3628 [hereinafter referred to as "THE SUBJECT PROPERTY"] respectfully represents:

PRELIMINARY STATEMENT

REAL PARTY in interest PRUDENCE WALTZ [hereinafter referred to as “WALTZ”] is currently plaintiff in action BC 374163 currently pending in THE SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES [hereinafter referred to as “THE PENDING STATE COURT ACTION”] which has, since October 26, 2010 been stayed as a result of a request made on behalf of LEHMAN BROTHERS’ HOLDING, INC. [the DEBTOR herein which is hereinafter referred to as “THE DEBTOR IN THIS CASE”] based upon the claim made in THE PENDING STATE COURT ACTION that it has an ownership interest in THE SUBJECT PROPERTY.

JURISDICTION

This Court has subject matter jurisdiction under 28 U.S.C. §§ 1334 & 2201 and sections 362(d)(2)(A) and 554(b) of Title 11 of the United States Code [“the Bankruptcy Code”] to terminate, annul, modify, condition and determine the extent of and effect of the automatic stay resulting from the filing of this Case on claims relating to property in the possession or under the control of a debtor’s affiliates and to direct the abandonment of claims and interests in property which are of inconsequential value and benefit to the estate. This is a core proceeding pursuant to 28 U.S.C. § 157(b)[G].

THE PENDING STATE COURT ACTION

1. The issues in THE PENDING STATE COURT ACTION are framed by the pleadings which include the following:

- (a) WALTZ’S FOURTH AMENDED COMPLAINT, a copy of which is filed herein as Exhibit “A”;
- (b) AURORA LOAN SERVICES [hereinafter referred to as “AURORA”] answer to WALTZ’S FOURTH AMENDED COMPLAINT, a copy of which is filed herein as Exhibit “B”;
- (c) AURORA’S cross-complaint, a copy of which is filed herein as Exhibit “C”; and

- (d) WALTZ'S answer to AURORA'S cross-complaint, a copy of which is filed herein as Exhibit "D";

2. AURORA'S defense in THE PENDING STATE COURT ACTION is being provided by counsel designated by its title insurer FIRST AMERICAN TITLE INSURANCE COMPANY which appears as its counsel of record on both the answer [a copy of which is filed herein as Exhibit "B"] and the cross-complaint [a copy of which is filed herein as Exhibit "C"] filed therein.

3. As a result of the insurance coverage provided by title insurer FIRST AMERICAN TITLE INSURANCE COMPANY in connection with WALTZ'S claims in THE PENDING STATE COURT ACTION the pendency and continuation of said action in THE SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES [hereinafter referred to as "THE CALIFORNIA COURT"] is inconsequential to and will have little if any effect on the administration of the estate in this case.

4. Trial in THE PENDING STATE COURT ACTION was scheduled to commence in THE CALIFORNIA COURT on the morning of October 26, 2010.

5. As trial was to commence in THE PENDING STATE COURT ACTION on October 26, 2010 an attorney claiming to represent THE DEBTOR IN THIS CASE appeared and invoked its right to the automatic stay under the provisions of Bankruptcy Code § 362(a) and a claimed interest in THE SUBJECT PROPERTY as more fully set forth in the "BRIEF RE: STAY OF PROCEEDINGS FILING BY INTERESTED PARTY LEHMAN BROTHERS HOLDING, INC" [hereinafter referred to as "THE REQUEST TO STAY THE STATE COURT PROCEEDINGS", a copy of which is filed herein as Exhibit "E"].

6. WALTZ'S opposition to THE REQUEST TO STAY THE STATE COURT PROCEEDINGS is set forth at page 13 line 2 through page 17 lines 5 inclusive and page 18 line 10 through 27 inclusive of the transcript of the proceedings of October 26, 2010 which is filed herein as Exhibit "F"].

7. As set forth at page 19 lines 12 through 25 inclusive of the transcript filed herein as Exhibit "F", THE CALIFORNIA COURT'S minute order [a copy of which is filed herein as Exhibit "G"] and the notice from AURORA'S counsel of the Court's ruling [a copy of which is filed herein as Exhibit "H"] THE CALIFORNIA COURT:

- (a) Granted THE REQUEST TO STAY THE STATE COURT PROCEEDINGS;
- (b) Terminated the October 26, 2010 trial proceedings; and
- (c) Set the matter for a February 25, 2011 status conference without any indication when the matter would be allowed to proceed.

8. Although WALTZ attempted to challenge the stay of THE PENDING COURT ACTION by the filing of a petition with THE CALIFORNIA COURT OF APPEAL FOR THE SECOND APPELLATE DISTRICT [a copy of which is filed herein as Exhibit "I"] her petition was denied without comment on November 9, 2010 [see Exhibit "J" filed herein].

9. By letter dated October 27, 2010 [a copy of which is filed herein as Exhibit "K"] WALTZ'S counsel requested a stipulation from counsel who appeared in THE CALIFORNIA COURT on behalf of THE DEBTOR IN THIS CASE which would have allowed THE PENDING STATE COURT ACTION to proceed.

10. As of this date WALTZ'S counsel has received no response to the letter dated October 27, 2010 to the counsel who appeared in THE CALIFORNIA COURT on behalf of THE DEBTOR IN THIS CASE.

**THE CALIFORNIA COURT IMPROPERLY
STAYED THE PENDING COURT ACTION**

11. The automatic stay under Bankruptcy § 362(a) [11 U.S.C. § 362(a)] does not stay WALTZ’S rights to prosecute her claims in THE PENDING STATE ACTION against any party, other than a party who is named as a debtor in a case pending under Title 11 of the United States Code [“The Bankruptcy Code] in the absence of an order issued by a Bankruptcy Court after a noticed motion under Bankruptcy Code § 105(a) [see: *Teachers Ins. & Annuity Association. v. Butler* (2d Cir.1986) 803 F.2d 61, 65; *Ingersoll-Rand Financial Corp. v. Miller Mining Co.*(9th Cir. 1987); 817 F.2d 1424, 1427; 3 Collier on Bankruptcy § 362.03(3)(d) (16th Edition Lexis-Nexus 2010) and 2 March & Ahart CALIFORNIA PRACTICE GUIDE BANKRUPTCY 8(I)-8 Scope of Automatic Stay ¶ 8:100 (The Rutter Group 2009)].

12. THE DEBTOR IN THIS CASE is not, and never has been designated as a party in THE PENDING STATE COURT ACTION.

13. None of the parties named in THE PENDING STATE COURT ACTION is named as a debtor in a case pending under Title 11 of the United States Code [“The Bankruptcy Code].

14. No order has been entered in this Case pursuant to section 105(a) of the Bankruptcy Code staying proceedings in THE PENDING STATE COURT ACTION brought against AURORA.

RELIEF REQUESTED

15. Pursuant to Sections 362(d)(2)(A) and 554(b) of the Bankruptcy Code WALTZ [11 U.S.C. §§ 362(d)(2)(A) and 554(b)] seeks an order determining that neither THE DEBTOR IN THIS CASE, its affiliates and subsidiaries [including AURORA] have any interest or claim to either title or possession of that certain real property located at and commonly known as 844-846 West 57th Street, Los Angeles, California 90037-3628 and directing each of them to abandon and relinquish any claims or causes of action relating to said property in THE PENDING STATE COURT ACTION.

16. WALTZ seeks a declaration of this Court pursuant to 28 U.S.C. § 2201(a) that THE STATE COURT ACTION now pending against AURORA is not subject to the automatic stay under section 362(a) of the Bankruptcy Code as a result of the commencement of a case in this Court under Title 11 of the United States Code by THE DEBTOR IN THIS CASE.

Wherefore Real Party in Interest PRUDENCE WALTZ prays that this Court enter an order:

1. Declaring and determining that neither LEHMAN BROTHERS HOLDING INC. [THE DEBTOR IN THIS CASE] or any subsidiary or affiliate of THE DEBTOR IN THIS CASE has any interest in the property that is the subject matter of THE PENDING STATE ACTION brought by Real Party in Interest PRUDENCE WALTZ;

2. Granting Real Party in Interest PRUDENCE WALTZ relief from the automatic stay under section 362(a) of the Bankruptcy Code which resulted from the filing of a petition for relief under Title 11 of the United States Code by THE DEBTOR IN THIS CASE;

3. Directing THE DEBTOR IN THIS CASE to abandon and relinquish any claims or causes of action related to the property which is the subject matter of THE PENDING STATE ACTION brought by Real Party in Interest PRUDENCE WALTZ against AURORA;

4. Declaring and determining that the automatic stay under section 362(a) of the Bankruptcy Code which resulted from the filing of a petition for relief under Title 11 of the United States Code by THE DEBTOR IN THIS CASE does not stay the prosecution of any claims in THE PENDING STATE ACTION brought by Real Party in Interest PRUDENCE WALTZ against AURORA;

5. Awarding WALTZ her costs and attorney fees incurred in prosecuting this petition pursuant to California Civil Code § 3334; and

6. Awarding WALTZ such other and further relief as the Court deems just and proper.

Dated: Woodland Hills, California
November 15, 2010

LAW OFFICES OF JEROME ZAMOS

By: 

Jerome Zamos, Attorneys for
Real Part in Interest PRUDENCE WALTZ
5228 Campo Road
Woodland Hills, California 91364-1927
Telephone: 818-348-7151
Facsimile: 818-348-6095
email: zamoslaw@aol.com

PROOF OF SERVICE BY MAIL

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of LOS ANGELES, State of CALIFORNIA. I am over the age of 18 and not a party to the within action; my business address is 5228 Campo Road, Woodland Hills, California 91364-1927.

On November 15, 2010 I served the following document(s) described as NOTICE OF MOTION OF PRUDENCE WALTZ FOR RELIEF FROM STAY AND AN ORDER DIRECTING THE ABANDONMENT OF CLAIMS AGAINST THE REAL PROPERTY COMMONLY KNOWN AS 844-846 WEST 57TH STREET, LOS ANGELES and PRUDENCE WALTZ'S MOTION PURSUANT TO SECTIONS 362(d)(2)(A) AND 554(b) OF THE BANKRUPTCY CODE REQUESTING RELIEF FROM STAY AND THE ENTRY OF AN ORDER DIRECTING DEBTOR IN POSSESSION AND ITS AFFILIATES TO ABANDONING CLAIMS AGAINST THE REAL PROPERTY THAT IS THE SUBJECT MATTER OF THAT CERTAIN ACTION PENDING IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES AS ACTION BC 374163, CALIFORNIA on the interested parties by placing a true copy thereof enclosed in a sealed envelope with postage fully prepaid addressed to:

Lehman Brothers Holdings Inc.
745 Seventh Avenue
New York, NY 10019

Harvey R. Miller, Esq.
Richard P. Krasnow, Esq.
Lori R. Fife, Esq.
Shai Y. Waisman, Esq.
Jacqueline Marcus, Esq.
Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, New York 10153

Andrew D. Velez-Rivera, Esq.
Office of the U.S. Trustee
33 Whitehall Street
21st. Floor
New York, NY 10004

Dennis F. Dunne
Milbank, Tweed, Hadley & McCloy LLP
1 Chase Manhattan Plaza
New York, NY 10005

[Counsel for AURORA LOAN SERVICES]
GARRETT & TULLEY, P.C.
CANDIE Y. CHANG, Esquire
STEPHANIE S. BANG, Esquire
225 South Lake Avenue
Suite 1400
Pasadena, California 91101-4869

[COUNSEL FOR REAL PARTY LEHMAN BROTHER'S HOLDING, INC.]
Justin D. Balser, Esquire
Donald M. Scotten, Esquire
Bryan M. Leifer, Esquire
AKERMAN SENTERFITT LLP
725 S. Figueroa St., Suite 3800
Los Angeles, CA 90071

MOHAMED FOUZI HAFFER, Esquire
HAFFER & ASSOCIATES
625 Broadway, Suite 825
San Diego, California 92101

BLUE OCEAN MORTGAGE, INC.
c/o MATTHEW P KAY
[its agent for service]
4347 McCONNELL
LOS ANGELES, CA 90066

JANELLE M. BAIRD
P.O. Box 1812
Hawaiian Gardens Ca, 90716

Samantha Hill
1201 N. Orange Grove Ave., #106
West Hollywood, CA 90046

MATTHEW P KAY
4347 McCONNELL
LOS ANGELES, CA 90066

LATOSHIA C. KELLER
4515 Don Ricardo Drive
Los Angeles, California 90008

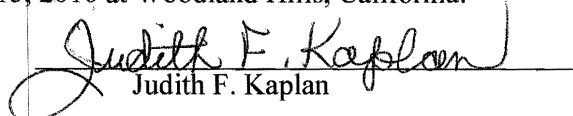
The Superior Court of The State of California
For the County of Los Angeles
Attention: The Hon. DEBRE K. WEINTRAUB
111 North Hill Street
Los Angeles, California 90012

I am "readily familiar" with the firms practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Woodland Hills, California. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in set forth in this affidavit.

I am employed in THE LAW OFFICES OF JEROME ZAMOS in Woodland Hills, California at whose direction service was made.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed November 15, 2010 at Woodland Hills, California.


Judith F. Kaplan